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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,811	11/02/2001	Aaron L. Strand	47097-01100	3820
30223	7590	05/20/2004	EXAMINER	
JENKENS & GILCHRIST, P.C.			CHOI, STEPHEN	
225 WEST WASHINGTON			ART UNIT	
SUITE 2600			PAPER NUMBER	
CHICAGO, IL 60606			3724	

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/002,811	Applicant(s) STRAND, AARON L.	
	Examiner Stephen Choi	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 14-16, 20, 26 and 31-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-13, 17-19, 21-25, 27-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 19 is objected to because of the following informalities: line 3, "said fins" should be changed to --fins--, line 5, "fins" should be changed to --said fins--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-13, 17-19, 24-25, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitz, jr. (US 5,417,134).

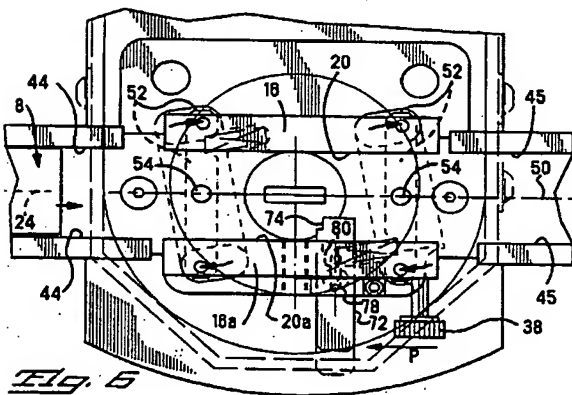
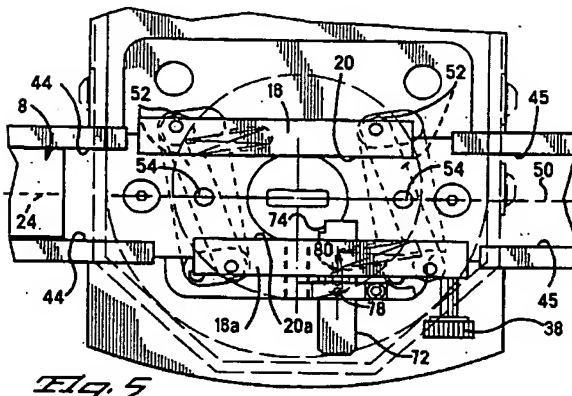
Fitz discloses all the recited elements of the invention including:

a) a housing (2) having a first slot, a second slot, and an open region (at 42);

b) a punch (3);

c) a guide slideable into the open region wherein the guide entering the open region in a plane that is generally parallel to the slot plane (see Figure below, the guide (16, 16a) is adapted to be slideably converge from the position shown on Figure 6 to the position shown on Figure 5 that is further into the open region). Regarding claims 13 and 30, the guide having a stepped edge (16, 16a, Figure 4). Regarding claims 17-19 and

24, the punch can be adapted to create a notch and edges as claimed and the guide can be adapted to engage at least one of tracks as claimed.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-23, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitz, Jr. (US 5,417,134).

Regarding claims 21 and 27, Fitz discloses the invention substantially as claimed except for the guide having a width approximately 15 to 30 % less than the width of the punch or the guide slot having a width approximately 15 to 30 % less than the width of the punch. It would have been an obvious matter of design choice to select the width of guide or guide slot to be approximately 15 to 30 % less than the width of the punch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Regarding claim 22, it would have been obvious to one having ordinary skill in the art at the time the invention was made to position an edge of the punch within approximately 0.00004 inches of said housing, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Regarding claims 23 and 29, it would have been an obvious matter of design choice to make the different portions of the slots of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Furthermore, it would have been an obvious matter of design choice to select the size of slots to accommodate tracks, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. It is noted that statement regarding the common knowledge set forth above with respect to claims 21-23, 27 and 29 is taken to be admitted prior art because applicant failed to traverse the examiner's assertion of the previous office action.

Response to Arguments

6. Applicant's arguments filed 15 March 2004 have been fully considered but they are not persuasive.

Applicant contends that the guides of Fitz are not slideable and do not slide into an opening. Instead, the guides are always located in the opening.

As pointed out above, the guides of Fitz are adapted to be slideably converging from the position shown on Figure 6 to the position shown on Figure 5 that is further into the open region. The claim does not preclude the guides being always located in the opening. The claim merely requires "a guide slideable into said open region". The guides of Fitz are adapted to be slideable further into the open region.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Art Unit: 3724

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC
18 May 2004


STEPHEN CHOI
PRIMARY EXAMINER